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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/978,114 | 10/15/2001 | Richard H. Jones | PHB 34-221A | 3750 |

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PHILIPS ELECTRONICS NORTH AMERICAN CORP
580 WHITE PLAINS RD
TARRYTOWN, NY 10591

EXAMINER

NGUYEN, DAVID Q

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2681

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/978,114

Applicant(s)

JONES ET AL.

Examiner

David Q Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/216261.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 20-21 and 23-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Katayama (US Patent Number 6545590).

Regarding claim 20, Katayama discloses a communication device, comprising a receiver operable to receive one of a numeric message, and alphanumeric message and a voice mail message (see abstract; col. 2, lines 55-60; fig. 2A); and a processor operable to compose a melody corresponding to the one of a numeric message, and alphanumeric message and a voice mail message subsequent to a reception of the one of a numeric message, and alphanumeric message and a voice mail message (see abstract; col. 4, lines 32-36; and fig. 2A).

Regarding claim 23, Katayama discloses a method of operating a communication device in alerting a user of the communication device of an incoming message, said method comprising receiving one of a numeric message, and alphanumeric message and a voice mail message (see abstract; col. 2, lines 55-60; fig. 2A); and compose a melody corresponding to the one of a numeric message, and alphanumeric message and a voice mail message subsequent to a

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reception of the one of a numeric message, and alphanumeric message and a voice mail message (see abstract; col. 4, lines 32-36; and fig. 2A).

Regarding claims 21 and 24, Katayama also discloses wherein said processor is further operable to divide the one of the numeric message, the alphanumeric message and the voicemail message into a plurality of fields to thereby compose the melody (see abstract; col. 4, lines 32-36; and fig. 2A).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama (US Patent Number 6545590).

Regarding claim 22, Katayama discloses a communication device comprising all of the limitations as claimed above. Katayama is silent to disclose the plurality of fields including a tempo field, a repetitive play field, and at least one note field. However, it would have been obvious to one of ordinary skill in the art at the time that the plurality of fields including a tempo field, a repetitive play field, and at least one note field so that user can program his/her melody in the communication device.

Response to Arguments

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5. Applicant's arguments with respect to claims 20-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q Nguyen whose telephone number is 7036054254. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 703-305-4778. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-9508 for regular communications and 703-305-9508 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

DW

April 23, 2003

Erika Gary
ERIKA GARY
PATENT EXAMINER